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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS and JOHN BONILLA, in their) No. C 05 4986 TEH
respective capacities as Trustees of the)
OPERATING ENGINEERS HEALTH AND)
WELFARE TRUST FUND FOR NORTHERN)
CALIFORNIA; TRUSTEES OF THE PENSION) **NOTICE OF DISMISSAL WITHOUT**
TRUST FUND FOR OPERATING ENGINEERS;) **PREJUDICE**
TRUSTEES OF THE PENSIONED OPERATING)
ENGINEERS HEALTH AND WELFARE FUND;)
TRUSTEES OF THE OPERATING ENGINEERS)
AND PARTICIPATING EMPLOYERS PRE-)
APPRENTICESHIP, APPRENTICE AND)
JOURNEYMEN AFFIRMATIVE ACTION)
TRAINING FUND; TRUSTEES OF THE)
OPERATING ENGINEERS VACATION AND)
HOLIDAY PLAN,)

Plaintiffs,

v.

WESTCON MICROTUNNELING, INC., A Utah)
Corporation; WESTCON MICROTUNNELING,)
INC. a Division of MODERN CONTINENTAL)
CONSTRUCTION CO., INC.; MODERN)
CONTINENTAL CONSTRUCTION CO., INC.;)
A Massachusetts Corporation;)

Defendants.

1 NOTICE IS HEREBY GIVEN that, pursuant to Federal Rule of Civil Procedure 41(a)(1),
2 Plaintiffs voluntarily dismiss the above-captioned action *without prejudice*. Said voluntary
3 dismissal without an order of the Court is appropriate, since none of the Defendants have filed an
4 answer or summary judgment in this matter.

5
6 DATED: September 7, 2006

7 WEINBERG, ROGER & ROSENFELD
8 A Professional Corporation

9 By: /s/ Conchita Lozano-Batista
10 CONCHITA LOZANO-BATISTA
11 Attorney for Plaintiffs

12 111493/432215

